

No. 1143-4Lab-73/4864.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak, in respect of the dispute between the workmen and the management of M/s Kelvinator of India Ltd., N.I.T., Faridabad:—

**BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT,
HARYANA, ROHTAK**

Reference No. 212 of 1971

between

**SHRI NEPAL SINGH AND THE MANAGEMENT OF M/S KELVINATOR OF INDIA LTD..
N.I.T., FARIDABAD**

Present :

Shri Jaswant Singh for the management.

Nemo for the workman.

AWARD

Shri Nepal Singh concerned workman was in the service of M/s Kelvinator of India Ltd., N.I.T., Faridabad, since 1st October, 1965 his duty being in the time office. According to the management, he had absented from duty with effect from 21st April, 1971 for a period of more than 8 days consecutively and his name had, therefore, been struck off the rolls as per the Standing Orders of the Company. He, however, raised a demand for his reinstatement,—*vide* demand notice dated 14th July, 1971 contending that his services had been illegally terminated with effect from 22nd May, 1971 and he was entitled to reinstatement with continuity of his previous service as well as full back wages. The management disputed his claim and did not agree to take him back in service.

The matter was taken up before the Conciliation Officer and on receipt of his failure report, the Governor of Haryana, in exercise of the powers conferred by clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947, referred for adjudication to this court the following dispute between the parties,—*i.e.* order No. ID/FD/37-A-71/32461-65, dated 5th November, 1971:—

"Whether the termination of services of Shri Nepal Singh was justified and in order? If not, to what relief is he entitled?"

Usual notices were given to the parties. The management filed the written statement with the allegations that the services of this workman had never been terminated and in fact he had himself abandoned service by absenting himself from duty without any authorisation consecutively for more than 8 days from 22nd April, 1971 onwards and it was thus a case of automatic termination of his services. Shri Nepal Singh concerned workman controverted the above allegation of the management.

The following 2 issues arose for determination from the pleadings of the parties:—

1. Whether the workman has deemed to have been left the Company's service under clause 8-G of the Certified Standing Orders?
2. If the above issue is found in favour of the workman, whether the termination of services of Shri Nepal Singh was justified and in order? If not, to what relief is he entitled?

Shri Nepal Singh concerned workman has himself come into the witness-box and examined one witness Shri Desh Raj, Helper, W. W. 2. According to him he had proceeded on leave for 3 days, i.e. from 15th to 17th April, 1971 which had been duly noticed by the management and when he reported for duty on 19th April, 1971 (18th April, 1971 being Sunday) he was laid up with fever but still he attended to his duty. His condition, however, subsequently deteriorated and he applied for 20 days leave with effect from 1st May, 1971 and sent his leave applications to the Foreman through one Desh Raj. He has further stated that he was treated at the Government Dispensary and on receipt of the fitness certificate Exhibit W.W. 1/1 he reported for duty on 22nd May, 1971 but he was put off by Shri Ahuja, Personnel Officer for full 15 days and ultimately turned out of the factory without any rhyme or reason. In cross-examination he has admitted his attendance cards Exhibit M. 1 and Exhibit M. 2 and the fact that he did not attend the factory from 21st April, 1971 to 30th April, 1971 and thereafter. He has also expressed his ignorance about the dates and details of the leave applications alleged to have been submitted by him during the period from 20th April, 1971 to 30th April, 1971.

Shri Desh Raj, W. W. 2, who belongs to the same village has deposed that he had brought the leave applications of Shri Nepal Singh alongwith the medical certificate in May, 1971 and handed over the same to Shri Kalu Ram, Supervisor, but he could not say if the leave had been

sanctioned or not. In cross-examination he has stated that Shri Nepal Singh also did not inquire from him if the leave had been sanctioned or not nor could he tell as to from what illness Shri Nepal Singh had been suffering.

On the other hand, the management has examined 2 witnesses M. W. 1 Shri N. Ahuja, Personnel Officer, and M. W. 2 Shri Kalu Ram, Charge-hand of M/s Kelvinator of India Ltd., N. J. T., Faridabad. Both the management witnesses have deposed that Shri Nepal Singh concerned workman had absented himself from duty without authorisation for more than 8 days consecutively with effect from 21st April, 1971 and no leave applications had been received from him direct or through Shri Desh Raj, Helper. M. W. 1, Shri N. Ahuja has further proved the attendance cards Exhibit M. W. 1. and Exhibit M. W. 2 of this workman and the letter dated 11th May, 1971 Exhibit M. 3 sent to him intimating that he had since absented himself from duty from 21st April, 1971, without any permission or authorisation by the management, he was deemed to have left service, as per clause 8(G) (ii) of the Certified Standing Orders of the Company.

I have given a careful consideration to the facts on record and the contentions raised by the learned representatives of the parties. According to the statement of the workman himself he had remained absent from 21st April, 1971 to 21st May, 1971 and he had reported for duty on 22nd May, 1971. His explanation for this absence of one month is that he had been taken ill and he had submitted his leave applications to the management through Shri Desh Raj. Those leave applications are not on record nor have the same been summoned from the management. His witness Shri Desh Raj has stated that he had handed over the applications to Shri Kalu Ram, Supervisor, which fact has, however, been denied by the latter coming into the witness-box as M. W. 2. No medical certificate showing the illness of this workman at least for the period from 21st April, 1971 to 30th April, 1971 has been produced. Even his witness Shri Desh Raj has not been able to tell as to what was the nature of his illness. His statement that he did not bother to inquire from the Supervisor whether the leave had been sanctioned or not nor did Shri Nepal Singh concerned workman inquired about it sounds rather strange. From the perusal of his attendance cards Exhibit M. 1 and Exhibit M. 2 also it would appear that he had been marked absent from 21st April, 1971 to 12th May, 1971. Since he had remained absent from duty without any proper authorisation for a period of more than 8 days consecutively and no reasonable explanation had been afforded by him within time, he was deemed to have lost his lien on the post held by him as per clause (G) (ii) of the Certified Standing Orders of the Company by which he was governed. He has not been able to satisfy me to the contrary. Issue No. 1 accordingly held against him.

In view of my above finding on issue No. 1, issue No. 2 does not arise for consideration. The workman having absented himself from duty of his own accord, without any proper authorisation, and further having failed to explain the cause of his absence within the prescribed period, as per the Standing Orders of the Company by which he was governed, he was deemed to have lost his lien on the post held by him. It was clearly a case of automatic termination of his services on account of his own conduct, as discussed above, and the management could not be held to have terminated his services without justification.

In the circumstances, Shri Nepal Singh workman concerned is not entitled to any relief by way of reinstatement or back wages. The award is made accordingly. No order as to costs.

O. P. SHARMA,

Dated 31st January, 1973.

Presiding Officer,
Labour Court, Haryana,
Rohtak

No. 335, dated 31st January, 1973.

Forwarded (four copies) to the Secretary to Government, of Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

S. N. BHANOT, Commissioner & Secy.